

CITY OF LYNNWOOD

ORDINANCE NO. 2681

AN ORDINANCE OF THE CITY OF LYNNWOOD, WASHINGTON, ESTABLISHING EXEMPTION FROM REAL PROPERTY TAXATION FOR THE DEVELOPMENT OF MULTIPLE UNIT HOUSING IN DESIGNATED RESIDENTIAL TARGETED AREAS; DESIGNATING THE CITY CENTER SUB-AREA AS A DESIGNATED RESIDENTIAL TARGET AREA; AND ADOPTING A NEW CHAPTER 3.82 OF THE LYNNWOOD MUNICIPAL CODE.

WHEREAS, Chapter 84.14 RCW authorizes cities to provide for exemptions from property taxation for multiple-unit housing development located in designated residential target areas; and

WHEREAS, the City's Comprehensive Plan establishes the Lynnwood Subregional Center; and

WHEREAS, on March 14, 2005, the City Council adopted the City Center Subarea Plan, which establishes within the Lynnwood Subregional Center a mixed-use urban center that includes multiple-unit housing development; and

WHEREAS, within both the Subregional Center and the City Center Subarea, there is an insufficient number of available, desirable and convenient residential units and housing opportunities to meet the needs of the City of Lynnwood's growing population, thus creating a need in those areas for desirable, convenient, attractive and livable housing units; and

WHEREAS, the development of additional housing units in the Subregional Center will cause a significant increase in the number of City residents, which will in part achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020; and

WHEREAS, the tax incentive provided by Chapter 84.14 RCW will stimulate the creation of new multiple-unit housing within the Subregional Center, and will benefit and promote public health, safety and welfare by encouraging residential development and redevelopment of that area of the City; and

WHEREAS, the tax-incentive program also would promote further economic development in the Subregional Center by creating an influx of new residents who will utilize urban services and stimulate urban development; now, therefore

THE CITY COUNCIL OF THE CITY OF LYNNWOOD DO ORDAIN AS FOLLOWS:

Section 1. Findings.

- A. The Subregional Center of the City of Lynnwood, as adopted in the City's Comprehensive Plan, lacks sufficient available, desirable and convenient residential housing to meet the needs of the public, and more current and future residents of Lynnwood would be likely to live in such area if additional desirable, convenient, attractive and livable places to live were available.
- B. The development of multiple-unit housing in the Subregional Center will attract and maintain a significant increase in the number of residents, thus making the area more vibrant and stimulating business, entertainment and cultural activities. Accordingly, development of additional multiple-unit housing within the Subregional Center will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020.
- C. The tax incentive provided by Chapter 84.14 RCW will stimulate the creation of new and enhanced multiple-unit housing structures within the Subregional Center, benefiting and promoting the public health, safety and welfare by encouraging residential redevelopment.
- D. The tax-incentive program also would promote further economic development and enhanced public safety in the Subregional Center by creating an influx of new residents who will utilize urban services, stimulating development and encouraging increased housing opportunities.
- E. The providing of additional multiple-unit housing opportunity in the City Center Subarea meets the requirements of Chapter 84.14 RCW.
- F. The notice of hearing for the designation of the "City Center Subarea" residential targeted area and the adoption of this ordinance meets the requirements of RCW 84.14.040.

Section 2. Purpose.

It is the purpose of this ordinance to encourage increased housing in keeping with the goals and mandates of the Growth Management Act (Chapter 36.70A RCW) so as to stimulate the construction of new multiple unit residential housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing in the City's Subregional Center, which has insufficient housing opportunities.

Section 3. Definitions.

- A. "City" means the City of Lynnwood, Washington.
- B. "Director" means the director of the City's Department of Community Development or authorized designee.
- C. "Owner" means the property owner of record.

- D. "Multiple-unit residential" and "multiple-unit housing," are used synonymously in this ordinance and mean a building having twenty or more dwelling units not designed or used as transient accommodations, not including hotels and motels, and designed for permanent residential occupancy resulting from new construction, rehabilitation or conversion of a vacant, underutilized or substandard building to multifamily housing.
- E. "Permanent residential occupancy" means multiple-unit housing that provides either owner occupant housing or rental accommodations that is leased for a period of at least one month on a no transient basis. This excludes accommodations that offer occupancy on a transient basis such as hotels and motels that predominately offer rental accommodations on a daily or weekly basis.
- F. "Rehabilitation improvements" means modifications to existing structures that are vacant for 12 months or longer, which modifications substantially comply with existing building codes, or modifications to existing occupied structures, which modifications increase the number of multifamily housing units.
- G. "Residential targeted area" means the area within or coterminous with the City Center Sub-Area boundary within the City's Subregional Center as defined and described in the City Comprehensive Plan, which has been designated by the City Council as the residential targeted area in accordance with this ordinance and Chapter 84.14 RCW, and which has been found by the City Council to be lacking sufficient available, convenient, attractive, livable, and desirable residential housing to meet the needs of the public.
- H. "Urban center" means the City Center Sub-Area described in Section 14 of this ordinance, where urban residents may obtain a variety of products and services including, but not limited to, shops, offices, banks, restaurants, governmental agencies and a mixture of uses and activities that may include housing, recreation, and cultural activities in association with either commercial or office, or both uses.

Section 4. Residential Targeted Area Designation Criteria.

Following notice and public hearing, or a continuance thereof, as prescribed in RCW 84.14.040, the City Council may, in its sole discretion, designate all or a portion of the Subregional Center as described and defined in the City Comprehensive Plan, as a residential targeted area . The designated residential targeted area must meet the following criteria, as found by City Council in its sole discretion:

- A. The targeted area is located within the City Center Sub-Area Boundary of the City's Subregional Center;
- B. The targeted area lacks sufficient available, attractive, convenient, desirable, and livable residential housing to meet the needs of the public who would be likely to live in the targeted area, if such places to live were available; and

- C. The providing of additional housing opportunity in the targeted area will assist in achieving the stated purposes of RCW 84.14.007 namely:
1. Encourage increased residential opportunities within the targeted area; or
 2. Stimulate the construction of new multiple-unit housing and the rehabilitation of existing vacant and underutilized buildings for multifamily housing that will increase and improve residential opportunities within the City Center.
- D. In designating the residential targeted area, the City Council may also consider other factors, including, but not limited to, which additional housing in the targeted area will attract and maintain a significant increase in the number of permanent residents, whether additional housing in the targeted area will help revitalize the City Center, whether an increased residential population will help improve the targeted area and whether an increased residential population in the targeted area will help to achieve the planning goals mandated by the Growth Management Act under RCW 36.70A.020.
- E. The notice for the hearing has met the requirements of RCW 84.14.040.

Section 5. Amendment or Rescission of Designation of Residential Targeted Area.

The City Council may, by ordinance, amend or rescind the designation of the residential targeted area at any time pursuant to the same procedure as set forth in this ordinance for original designation.

Section 6. Tax Exemption For Multi-Family Housing in Residential Targeted Areas.

- A. Intent. Limited property tax exemptions from ad valorem property taxation for multiple-unit housing are intended to:
1. Encourage increased residential opportunities within the residential targeted area, as designated by the City Council;
 2. Stimulate new construction or rehabilitation of existing vacant and underutilized buildings for multiple-unit housing in the residential targeted area to increase and improve housing opportunities;
 3. Assist in directing future population growth into the residential targeted area, thereby reducing development pressure on single-family residential neighborhoods; and
 4. Achieve development densities, which are more conducive to transit use in the residential targeted area.
- B. Establishment and Duration of Exemption. The value of improvements qualifying under this ordinance shall be exempt from ad valorem property taxation for either eight (8) or twelve (12) successive years, in accordance with RCW 84.14.020, beginning January 1 of

the year immediately following the calendar year after issuance of the Final Certificate of Tax Exemption.

- C. **Limits on Exemption.** The exemption does not apply to the value of the land or to the value of improvements not qualifying under this ordinance, nor does the exemption apply to increases in assessed valuation of land or non-qualifying improvements. In the case of rehabilitation of existing buildings, the exemption does not include the value of improvements constructed prior to submission of the completed application required under this ordinance.
- D. **Project Eligibility.** A proposed project must meet the following requirements for consideration for a property tax exemption:
1. **Location.** The project must be located within the residential targeted area designated by the City Council.
 2. **Tenant Displacement Prohibited.** The project must not displace existing residential tenants of structures that are proposed for redevelopment. Existing dwelling units proposed for rehabilitation must have been unoccupied for a minimum of 12 months prior to submission of an application and must fail to comply with one or more requirements the City's Building Code, as now in effect or as amended. Applications for new construction cannot be submitted for vacant property upon which an occupied residential rental structure previously stood, unless a minimum of 12 months has elapsed from the time of most recent occupancy.
 3. **Size.** The project must include at least 50 units of multiple-unit housing within a residential structure. A minimum of 50 new units must be constructed or at least 20 additional housing units must be added to existing occupied multiple-unit housing units. Existing multiple-unit housing units that have been vacant for 12 months or more do not have to provide additional units so long as the project provides at least 20 units of new, converted or rehabilitated multiple-unit housing units.
 4. **Permanent Residential Housing.** At least 100% percent of the proposed multiple-unit housing units must be constructed to standards established for condominium construction and 50% of said units must be provided for permanent residential ownership occupancy, as defined in Section 3 E. Such housing shall be of high quality and finish materials appropriate to the design standards in the City Center Plan. Only that portion of the space designated for multiple-unit housing shall be eligible for the exemption provided for herein.
 5. **Proposed Completion Date.** New construction and rehabilitation improvements must be completed within three years from the date of approval of the application, plus any extension of time granted under Section 8 B.
 6. **Compliance with Guidelines and Standards.** The project must be designed to comply with the applicable provisions of the comprehensive plan, development regulations,

building, housing and zoning codes, and any other applicable regulations in effect at the time the applicant submits a fully completed application to the Director. New construction must comply with the City's Building Code and all other applicable regulations for condominium construction. Rehabilitation and conversion improvements must comply with the City Building Code, and all other applicable regulations. For the duration of the exemption granted under this ordinance, the property shall have no violations of applicable City codes and ordinances, including but not limited to zoning requirements, land use regulations and building and housing requirements for which a notice of violation has been issued and is not resolved by compliance, withdrawal or other final resolution. The project must also comply with any other standards and guidelines adopted by the City for the residential targeted area in which the project will be developed.

7. **Parking.** The project shall provide all required parking spaces on site. The parking requirements for multiple-unit residential dwellings of the City Center Subarea Plan and development regulations are applicable to the multiple-unit housing units provided for in this Ordinance, provided, that to qualify for the exemption hereunder, the project shall provide not less than one (1) parking space per new or rehabilitated residential unit in the project. The term "parking spaces on site" means that all the parking required under applicable City codes and requirements, shall be off street parking and provided on the property subject to the application for tax exemption hereunder or on any contiguous parcel owned by the applicant and not separated by a street, alley, other public right of way, or property not owned by the applicant. The Director may authorize the parking area for a multiple-unit housing unit which is subject to the application for tax exemption hereunder, to be located on a contiguous parcel which is separated from the unit site by an alley, if topographic, environmental or space constraints prevent vehicle parking and maneuvering from being placed on the location otherwise required by this ordinance. In approving the on-site parking on any parcel contiguous to the site, including any approved parcel separated by an alley, the Director shall require the owner to execute and record a covenant running with the land, acceptable to the City Attorney, dedicating such parking area to parking use, to terminate only in the event that the owner's use which created the need for the parking on the owner's property, is abandoned, discontinued or otherwise terminated, or the owner provides parking in a contiguous alternate location which is acceptable to and approved by the City.
8. **LEED.** The project shall be designed to meet the LEED™ Silver Standard as established by the U.S. Green Building Council (USGBC).
9. **Historic Structures.** A project that results in the demolition of properties that are listed on the City of Lynnwood's historic register is not eligible for the tax exemption.

Section 7. Application Procedures.

A property Owner who wishes to propose a project for a tax exemption shall comply with the following procedures:

- A. Prior to April 1 of any year and prior to application for any building permit therefore, the applicant shall submit an application to the Director, with a complete copy to the Economic Development Director.
- B. A complete application shall contain such information as the Director may deem necessary or useful, and shall include:
 - 1. A brief written description of the project, preliminary schematic site plan, preliminary floor plans of the multiple-unit housing units, the composition and size of the units, and the structure(s) in which they are proposed to be located;
 - 2. A brief statement setting forth the grounds for qualification for exemption;
 - 3. A statement from the Owner acknowledging the potential tax liability when the project ceases to be eligible under this ordinance; and
 - 4. Verification by oath or affirmation of the information submitted. For rehabilitation projects, the applicant shall also submit an affidavit that existing dwelling units have been unoccupied for a period of 12 months prior to filing the application.

Section 8. Application Review and Issuance of Conditional Certificate

The Director may certify as eligible an application, which is determined to comply with the requirements of this ordinance. A decision to approve or deny an application shall involve consultation with the Economic Development Director, and shall be made within 90 days of receipt of a complete application.

- A. Approval. If an application is approved by the Director, the approval, together with a contract between the applicant and the City regarding the terms and conditions of the project, signed by the applicant, shall be presented to the City Council with a recommendation that the Council authorize the Mayor to sign the contract. The contract may be a part of a development agreement, or similar development document. Once the contract is fully executed, the Director shall issue a Conditional Certificate of Acceptance of Tax Exemption. The Conditional Certificate expires three years from the date of approval unless an extension is granted as provided in this ordinance.
- B. Extension of Conditional Certificate. The Conditional Certificate may be extended by the Director for a period not to exceed 24 consecutive months. The applicant shall submit a written request stating the grounds for the extension. An extension may be granted if the Director determines that:
 - 1. The anticipated failure to complete construction or rehabilitation within the required time period is due to circumstances beyond the control of the owner;
 - 2. The Owner has been acting and could reasonably be expected to continue to act in good faith and with due diligence; and

3. All the conditions of the original contract between the applicant and the City will be satisfied upon completion of the project.
- C. Denial of Application. If the application is denied, the Director shall state in writing the reasons for denial and shall send notice to the applicant at the applicant's last known address within ten days of the denial. An applicant may appeal a denial to the City Council by filing a written appeal with the City Clerk within 30 days of notification by the City to the applicant that the application is denied. The appeal will be based upon the record made before the Director with the burden of proof on the applicant to show that there is no substantial evidence on the record to support the Director's decision. The decision of the City Council in denying or approving the application is final. All other appeals of the Director's decisions shall be made to the Hearing Examiner.

Section 9. Application for Final Certificate.

Upon completion of the improvements provided in the contract between the applicant and the City and upon issuance of a temporary or permanent certificate of occupancy, the applicant may request a Final Certificate of Tax Exemption. The applicant shall file with the Director such information as the Director may deem necessary or useful to evaluate eligibility for the Final Certificate and shall include:

- A. A statement of expenditures made with respect to each multiple-housing unit and the total expenditures made with respect to the entire property;
- B. A description of the completed work and a statement of qualification for the exemption;
- C. If applicable, a statement that the project meets the affordable housing requirements; and
- D. A statement that the work was completed within the required three-year period or any authorized extension. Within 30 days of receipt of all materials required for a Final Certificate, the Director shall determine whether the improvements satisfy the requirements of this ordinance.

Section 10. Issuance of Final Certificate.

If the Director determines that the project has been completed in accordance with the contract between the applicant and the City and has been completed within the authorized time period, the City shall, within 10 days following the expiration of the 30- day period specified in Section 9. C, file a Final Certificate of Tax Exemption with the Snohomish County Assessor.

- A. Denial and Appeal. The Director shall notify the applicant in writing that a Final Certificate will not be filed if the Director determines that:
 1. The improvements were not completed within the authorized time period;

2. The improvements were not completed in accordance with the contract between the applicant and the City;
 3. If applicable, the affordable housing requirements were not met, and
 4. The Owner's property is otherwise not qualified under this chapter; or
 5. The Owner and the Director cannot come to an agreement on the allocation of the value of the improvements allocated to the exempt portion of rehabilitation improvements, new construction and multi-use new construction.
- B. Within 30 days of notification by the City to the owner of the Director's denial of a Final Certificated of Tax Exemption, the applicant may file a written appeal with the City Clerk specifying the factual and legal basis for the appeal. The appeal shall be heard by the City's Hearing Examiner.

Section 11. Annual Compliance Review.

Within 30 days after the first anniversary of the date of filing the Final Certificate of Tax Exemption and each year thereafter, for the period of the tax exemption, the Owner shall file a notarized declaration with the Director indicating the following:

- A. A statement of occupancy and vacancy of the multiple-unit housing units during the previous year;
- B. A certification that the property continues to be in compliance with the contract with the City, and if applicable, in compliance with the affordable housing requirements; and
- C. A description of any subsequent improvements or changes to the property. The Director shall conduct on-site verification of the declaration. Failure to submit the annual declaration may result in the tax exemption being canceled.
- D. Any additional information requested by the City in regards to the units receiving a tax exemption.

The City shall comply with the reporting requirements of RCW 84.14.100 (2).

Section 12. Cancellation of Tax Exemption.

If at any time the Director determines, in consultation with the Economic Development Director, that the Owner has not complied with the terms of the contract or with the requirements of this ordinance, or that the property no longer complies with the terms of the contract or with the requirements of this ordinance, or for any reason no longer qualifies for the tax exemption, the tax exemption shall be canceled and additional taxes, interest and penalties shall be imposed pursuant to State law. This cancellation may occur in conjunction with the annual review or at any other time when noncompliance has been determined. If the Owner intends to convert the

multiple-unit housing to another use, or if applicable, if the Owner intends to discontinue compliance with the affordable housing requirements, the Owner shall notify the Director and the Snohomish County Assessor within 60 days of the change in use or intended discontinuance. Upon such change in use, the tax exemption shall be canceled and additional taxes, interest and penalties shall be imposed pursuant to State law.

- A. Effect of Cancellation. If a tax exemption is canceled due to a change in use or other noncompliance, the Snohomish County Assessor shall comply with applicable State law to impose additional taxes, interest and penalties on the property, and a priority lien may be placed on the land, pursuant to State law.
- B. Notice and Appeal. Upon determining that a tax exemption is to be canceled, the Director shall notify the property owner by certified mail return receipt requested. The Owner may appeal the determination by filing a notice of appeal with the City Clerk within 30 days, specifying the factual and legal basis for the appeal. The Hearing Examiner will conduct a hearing at which the applicant and the City will be heard and all competent evidence received. The Hearing Examiner will affirm, modify, or repeal the decision to cancel the exemption based on the evidence received.

Section 13. Appeals to Hearing Examiner.

- A. The City's Hearing Examiner is hereby provided jurisdiction to hear appeals of the decisions of the Director under this ordinance. The appeals shall be as follows:
 - 1. Appeal of a decision of the Director that the owner is not entitled to a Final Certificate of Tax Exemption, filed with the City Clerk within 30 days of notification by the City to the owner of denial of a Final Certificate of Tax Exemption.
 - 2. Appeal of cancellation of tax exemption, filed with the City Clerk within 30 days of the notification by the City to the owner of cancellation.
- B. Appeals to the Hearing Examiner shall be handled pursuant to Process II (LMC 1.35.200).

Section 14. City Center Subarea Designation as Residential Targeted Area.

The City Council finds that the City Center Subarea, as described in the City Center Subarea Plan adopted by Ordinance No. 2553, meets the criteria of Section 4 of this ordinance, and is designated as a residential targeted area of the City.

Section 15. Termination of Tax Exemption Program

As of December 31, 2012, no applications shall be accepted for the tax exemption provided for under the provisions of this ordinance. This Ordinance shall apply only to applications that are determined to be fully complete and approved in accordance with this ordinance on or before December 31, 2012.

Section 16. Severability

Should any section, subsection, paragraph, sentence, clause or phase of this ordinance or its applications to any person or situation be declared unconstitutional or invalid for any reason, such decisions shall not affect that validity of the remaining portions of this ordinance or its application to any other person or situation. The City Council hereby declares that it would have adopted this ordinance and each section, subsection, paragraph, sentence, clause, or phase or portion thereof irrespective of the fact that any one or more sections, subsections, paragraphs, sentences, clauses or phrases or portions be declared invalid or unconstitutional.

Section 17. Effective Date of Tax Exemption.

This Ordinance is applicable only to new construction multiple-unit housing and rehabilitation improvements the commencement of development of which is implemented after the effective date of this ordinance.

Section 18. New Chapter

This ordinance shall constitute a new Chapter 3.82, to be titled Multiple-Unit Housing Property Tax Exemption, of the Lynnwood Municipal Code.

Section 19. Administrative Forms

The Director is authorized to prepare form templates to implement and administer this ordinance.

Section 20. Effective Date of Ordinance.

This ordinance or a summary thereof consisting of the title shall be published in the official newspaper of the City, and shall take effect and be in full force on August 1, 2007.

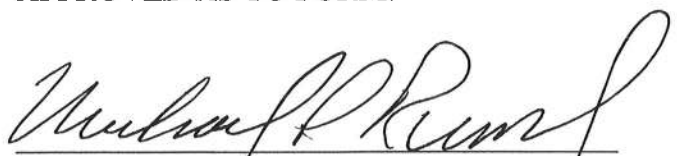
PASSED THIS 29th day of May, 2007, and signed in authentication of its passage this 6th day of June, 2007.


DON GOUGH, Mayor

ATTEST:


VICKI HEILMAN
Interim Finance Director

APPROVED AS TO FORM:


MIKE RUARK
City Attorney

